

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

HENRY J. BUNCH

PLAINTIFF

v.

Civil No. 06-5220

ROBERT ALLEN RILEY,  
Fayetteville Police Department; JEREMY  
B. GRAMMAR, Fayetteville Police  
Department; CHRISTOPHER D. MOAD,  
Fayetteville Police Department;  
THOMAS E. REED, Fayetteville Police  
Department; DEREK F. KRAUSE, Fayetteville  
Police Department; NATHANIEL R. COY,  
Fayetteville Police Department; and JANET  
E. MACRI, Fayetteville Police Department

DEFENDANTS

**ORDER**

Defendants filed a motion for summary judgment (Doc. 23). To assist plaintiff in responding to the motion for summary judgment, the undersigned is propounding a questionnaire. The court will consider plaintiff's response to the questionnaire in issuing a report and recommendation on the motion for summary judgment.

For this reason, Henry J. Bunch is hereby directed to complete, sign, and return the attached response to defendants' motion for summary judgment on or before **August 4, 2008**.

**Plaintiff's failure to respond within the required period of time may subject this matter to dismissal for failure to comply with a court order.**

IT IS SO ORDERED this 9th day of July 2008.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI  
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
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ROBERT ALLEN RILEY,  
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Fayetteville Police Department; and JANET  
E. MACRI, Fayetteville Police Department

DEFENDANTS

**RESPONSE TO SUMMARY JUDGMENT MOTION**

TO: HENRY J. BUNCH

These questions and answers will serve as your response to defendants' motion for summary judgment. You may use additional sheets of paper in responding to these questions.

You must file this response by **August 4, 2008**.

1. Nathaniel Coy is currently an officer with the Fayetteville Police Department (FPD) and was an officer with the FPD on November 14, 2004.<sup>1</sup>

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A at ¶

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<sup>1</sup>Some of the affidavits utilize the date of November 4, 2004. However, the case report or arrest reports from the officers all contain the date of November 14, 2004, the same date used by the plaintiff. Thus, the court assumes the date of November 14, 2004, is the correct date.

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2. Coy did not witness your apprehension or arrest on November 14, 2004.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A at ¶

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3. When Coy arrived on the scene on November 14, 2004, you had already been taken into custody.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A at ¶

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4. Coy did not witness anyone pick you off the ground and slam you to the ground or kick you, beat you with a stick, or stomp on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A at ¶

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5. Coy did not witness anyone use excessive physical force on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A at ¶

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6. At no time while Coy was present did you claim that you were injured.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A at ¶

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7. You were arrested on November 14, 2004, and charged with possession of a controlled substance (marijuana), possession of a controlled substance (pseudoephedrine), possession of drug paraphernalia, and furnishing prohibited articles.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A, Case Report of Officer Coy.

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8. You were placed in the back of Coy's patrol unit and transported to the city jail.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A, Case Report of Officer Coy.

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9. At city jail, a search of your clothing was conducted. Five grams of a green leafy

substance, later determined to be marijuana, was found in a plastic baggie in your pants pocket.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit A, Case Report of Officer Coy.

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10. Robert Riley is currently an officer with the FPD and was on November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B at ¶ 1.

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11. At no time did Riley pick you up off the ground, slam you to the ground, kick you, beat you with a stick, or stomp on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B at ¶ 3.

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12. Riley did not see anyone else pick you off the ground, slam you to the ground, kick you, beat you with a stick, or stomp you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B at ¶ 4.

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13. Riley used only reasonable force in dealing with you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B at ¶ 5.

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14. You never said in Riley's presence that you were injured.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B at ¶

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15. Riley did not witness anyone use anything other than reasonable force with you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B at ¶

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16. On November 14, 2004, Riley was dispatched to a shots fired call in the area of Wal-Mart West at 2875 W. Sixth.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,

Case Report of Officer Riley.

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17. Before Riley arrived at the scene, Officer Reed arrived and advised by radio that he had witnessed you run north across Sixth Street into a residential area at the intersection of One Mile and Sixth Street. Officer Macri arrived at the scene.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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18. Officer Reed advised that shots had been fired at him. Riley then arrived at the scene just after Officers Grammar and Moad.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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19. Riley parked at the intersection of One Mile and Sixth Street. After determining that Officers Macri and Reed were not injured, Riley proceeded northbound to set up a perimeter.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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20. Officer Grammar caught sight of you crouching near a bush in front of the residence at 1020 S. One Mile Road. Grammar ordered you to the ground.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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21. Grammar had to make several verbal orders for you to get on the ground before you would comply. When you went to the ground, officers approached.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,  
Case Report of Officer Riley.

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22. When Moad attempted to secure you in handcuffs, you became aggressive and  
attempted to pull your arms away.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,  
Case Report of Officer Riley.

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23. Macri secured the weapon that was near your feet while Moad was attempting to  
secure you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,  
Case Report of Officer Riley.

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24. Riley tried to secure one of your legs to keep you from kicking at people while you were being secured.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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25. While searching you, Riley located seven boxes of pseudoephedrine at the bottom of one pant leg that were secured to your ankle by stereo wire.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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26. At this point, you kicked Riley in the back and upper neck area.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,  
Case Report of Officer Riley.

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27. Officer Krause applied a drive stun to you to get you to stop resisting.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,  
Case Report of Officer Riley.

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28. After you were secured and taken to the patrol unit, Moad found a couple of  
bullet rounds that came out of your pockets.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B,  
Case Report of Officer Riley.

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29. Riley secured a 9mm round, a 38 caliber bullet, the pseudoephedrine, some articles of clothing, and two black address books.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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30. The pseudoephedrine, address book, a shirt, jacket and a baseball cap which was the property of Wal-Mart, were tagged and submitted into evidence.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit B, Case Report of Officer Riley.

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31. Thomas Reed is currently an officer with the FPD and was an officer with the FPD on November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C at ¶

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32. Reed had no physical contact with you on November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C at ¶

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33. Reed did not witness your apprehension or arrest on November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C at ¶

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34. Reed responded to a call of shots fired in the area of 2875 West Sixth Street. He was advised there were two males chasing another male in the Wal-Mart parking lot. He was told one of the males was shooting at the other two.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C, Case Report of Officer Reed.

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35. As Reed was approaching the intersection of Sixth and One Mile, he observed three males run across Sixth Street in front of his patrol unit. One was a black male in a blue shirt with two males chasing him.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C, Case Report of Officer Reed.

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36. Reed was waved down by the two males who were chasing the black male. The two men were later identified as Wal-Mart security. Reed pulled into the parking lot of 2941



West Sixth Street.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C,  
Case Report of Officer Reed.

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37. Reed identified himself as a police officer, he had the lights and siren on of his patrol unit, and was dressed in uniform. He told you to stop, show your hands, and get to the ground. You turned and looked at him and continued to flee.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C,  
Case Report of Officer Reed.

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38. Reed observed you run north around the corner of a house and reach into your waistband with your lefthand and remove a handgun.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C,

Case Report of Officer Reed.

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39. At this point, Reed was almost parallel to you about thirty feet away from you. You turned towards him and pointed the handgun at him extended it from your left shoulder and looking directly at Reed you discharged one round at Reed.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C,  
Case Report of Officer Reed.

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40. Reed took cover behind a tree and radioed that shots had been fired.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C,  
Case Report of Officer Reed.

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41. Macri was about thirty feet behind Reed and to the west. You kept running to the north.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit C, Case Report of Officer Reed.

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42. Jeremy Grammar was an officer with the FPD on November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D at ¶ 1.

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43. Grammar did not pick you up off the ground, slam you to the ground, kick you, beat you with a stick, or stomp on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D at ¶

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44. Grammar did not witness anyone else pick you up off the ground, slam you to the ground, kick you, beat you with a stick, or stomp on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D at ¶

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45. Grammar used only reasonable force against you on November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D at ¶

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46. You did not in Grammar's presence on November 14, 2004, state that you were injured.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D at ¶ 6.

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47. Grammar did not witness anyone use other than reasonable force against you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D at ¶ 7.

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48. When Grammar arrived at the scene, he began setting up an outer perimeter. The address you had run in front of was 1020 One Mile.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D, Case Report of Officer Grammar.

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49. Grammar observed a small bush near a section of the front of the house and a large shadow mass behind the bush moving. Grammar pointed his shot gun at the mass and began giving orders.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D, Case Report of Officer Grammar.

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50. Grammar could see it was a human body behind the bush. Grammar ordered you to show your hands. You stood up and then squatted back down quickly. Grammar again ordered you to show your hands and step away from the side of the house.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D, Case Report of Grammar.

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51. You then stood up, showed Grammar both your hands, and took one step towards the north with your hands out at your sides.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D, Case Report of Officer Grammar.

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52. Grammar ordered you to a prone position in the front yard of 1020 One Mile.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D, Case Report of Officer Grammar.

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53. With his gun pointed at you, Grammar approached and covered you while other officers put you in handcuffs.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D,  
Case Report of Officer Grammar.

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54. As Grammar approached, he saw a black revolver with a wooden handle lying on  
the ground between your feet. Macri took control of the weapon.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D,  
Case Report of Officer Grammar.

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55. As you were being searched, you became combative and Grammar saw you kick  
Riley in the back with one of your feet.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D,  
Case Report of Officer Grammar.

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56. Krause then applied a drive stun with his taser to your carotid artery area.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit D,  
Case Report of Officer Grammar.

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57. Chris Moad is an officer with the FPD and was an officer with the FPD on  
November 14, 2004.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E at ¶  
1.

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58. Moad did not pick you up off the ground, slam you to the ground, or kick, or beat  
you with a stick or stomp on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E at ¶

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59. Moad did not witness anyone else pick you up off the ground, slam you to the ground, or kick you, or beat you with a stick or stomp on you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E at ¶

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60. Moad used reasonable force against you at all times on November 14, 2004.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E at ¶

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61. You did not claim in Moad's presence that you were injured.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E at ¶  
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62. Moad did not witness anyone use excessive physical force against you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E at ¶  
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63. Moad arrived at the scene at the same time as Officer Grammar.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case  
Report of Officer Moad.

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64. After you went to the ground, Moad approached and secured your hands in handcuffs.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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65. You attempted to pull your arms away from Moad as he was attempted to handcuff you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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66. Riley and Krause assisted in securing you so Moad could handcuff you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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67. Macri secured a weapon located directly at your feet.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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68. As Moad was securing you, Macri began to check you for weapons. You began to kick and pull away despite commands by Grammar to lay still.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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69. Moad gave you several commands to stop resisting. You continued to resist and yell at officers.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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70. Moad ordered you to remain silent. You continued to speak.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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71. At one point, you stated "I did not shoot anyone, I only shot in the air." Moad again advised you to remain silent, but you continued to speak.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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72. While searching you, Moad found seven boxes of pseudoephedrine pills, one 38 caliber round, and a small plastic baggy. You had two pair on pants on and the pseudoephedrine was located on the inside pair on pants secured with stereo wire.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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73. As they were attempted to secure you, you continued to kick your legs and kicked Riley.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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74. At this point, Krause applied a drive stun to you. You still continued to resist.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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75. You were placed in Moad's patrol unit.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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76. Crime scene tape was used to seal off the area where you fled on foot and where you had fired the shots at Reed.



Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit E, Case Report of Officer Moad.

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77. On November 14, 2004, Derek Krause was acting in his capacity as an officer of the FPD.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶

1.

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78. Krause did not pick you up off the ground, slam you to the ground, or kick you, or beat you with a stick, or stomp on you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶

3.

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79. Krause did not see anyone else pick you up off the ground, slam you to the ground, or kick you, or beat you with a stick, or stomp on you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶  
4.

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80. While officers were attempting to handcuff you, you were trying to resist and kicked Riley. Krause applied a five-second drive stun with a X26 Taser to your carotid artery to subdue you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶  
5.

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81. Krause applied only one stun drive.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶

5.

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82. Krause used reasonable force in an effort to restrain you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶

6.

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83. At no time while Krause was present, did you say that you were injured.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶

7.

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84. Krause did not see anyone use unreasonable or excessive physical force against you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit F at ¶ 8.

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85. John Brooks is currently an officer with the FPD and was a criminal investigator with the FPD on November 14, 2004.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit G at ¶ 1.

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86. On November 14, 2004, Brooks came to the city jail to recover a gunshot residue kit from your hands and to photograph numerous tattoos on your upper torso, neck, back,

arms, leg, and hands.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit G at ¶

2.

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87. You did not tell Brooks you were injured on November 14, 2004.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit G at ¶

3.

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88. On November 14, 2004, Macri was an officer for the FPD.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H at ¶

1.

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89. Macri did not pick you up off the ground, slam you to the ground, kick you, beat you with a stick, or stomp on you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H at ¶  
3.

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90. Macri did not see anyone pick you up off the ground, slam you to the ground, kick you, beat you with a stick, or stomp on you.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H at ¶  
4.

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91. Macri did not see anyone use excessive or unreasonable physical force against you.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H at ¶

6.

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92. Macri was with Reed when he saw you motion towards Reed. Macri heard one shot fired in their direction.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H,

Case Report of Officer Macri.

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93. Macri radioed that shots had been fired and then went to the ground because of his lack of cover.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H,

Case Report of Officer Macri.

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94. Macri stood back up and saw you running westbound through the yard of a second residence on One Mile. Macri began chasing you. Macri stopped when you went around the front of the house.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H, Case Report of Officer Macri.

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95. Macri lost sight of you and you were later arrested near the front of the house. Macri came around and located a gun at the base of your feet.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_ Without knowledge to agree or disagree \_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit H, Case Report of Officer Macri.

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96. The FPD has a policy regarding the use of force that provides that the officers shall not use more force in any situation than is reasonably necessary under the circumstances.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_ Without knowledge to agree or disagree\_\_\_\_\_.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit I.

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97. Did you suffer any physical injury as a result of the alleged use of physical force against you on November 14, 2004?

Answer: Yes \_\_\_\_\_ No \_\_\_\_\_.

If you answered yes, please describe: (a) the physical injuries you suffered; (b) the symptoms you experienced; (c) the severity of the injuries or symptoms; (d) whether you sought, or received, medical treatment; (e) the treatment you received; and (f) how long it took you to recover from the injuries.

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This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Detail below any further response you would like to make to defendants' motion for summary judgment. If you have any exhibits you would like the court to consider, you may attach them to this response.

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